

107TH CONGRESS  
2D SESSION

# H. R. 5687

To direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the Oahe Unit, James Division, South Dakota, to the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2002

Mr. THUNE introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the Oahe Unit, James Division, South Dakota, to the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Blunt Reservoir and  
3 Pierre Canal Land Conveyance Act of 2002”.

4 **SEC. 2. BLUNT RESERVOIR AND PIERRE CANAL.**

5 (a) DEFINITIONS.—In this section:

6 (1) BLUNT RESERVOIR FEATURE.—The term  
7 “Blunt Reservoir feature” means the Blunt Res-  
8ervoir feature of the Oahe Unit, James Division, au-  
9thorized by the Act of August 3, 1968 (82 Stat.  
10 624), as part of the Pick-Sloan Missouri River Basin  
11 Program.

12 (2) GOVERNOR.—The term “Governor” means  
13 the Governor of the State, or a designee of such  
14 Governor.

15 (3) NONPREFERENTIAL LEASE PARCEL.—The  
16 term “nonpreferential lease parcel” means a parcel  
17 of land that—

18 (A) was purchased by the Secretary for use  
19 in connection with the Blunt Reservoir feature  
20 or the Pierre Canal feature; and

21 (B) was considered to be a nonpreferential  
22 lease parcel by the Secretary as of January 1,  
23 2001, and is reflected as such on the roster of  
24 leases of the Bureau of Reclamation for 2001.

25 (4) PIERRE CANAL FEATURE.—The term  
26 “Pierre Canal feature” means the Pierre Canal fea-

1       ture of the Oahe Unit, James Division, authorized  
2       by the Act of August 3, 1968 (82 Stat. 624), as  
3       part of the Pick-Sloan Missouri River Basin Pro-  
4       gram.

5           (5) PREFERENTIAL LEASEHOLDER.—The term  
6       “preferential leaseholder” means a person or de-  
7       scendant of a person that held a lease on a pref-  
8       erential lease parcel as of January 1, 2001, and is  
9       reflected as such on the roster of leases of the Bu-  
10      reau of Reclamation for 2001.

11          (6) PREFERENTIAL LEASE PARCEL.—The term  
12      “preferential lease parcel” means a parcel of land  
13      that—

14           (A) was purchased by the Secretary for use  
15      in connection with the Blunt Reservoir feature  
16      or the Pierre Canal feature; and

17           (B) was considered to be a preferential  
18      lease parcel by the Secretary as of January 1,  
19      2001, and is reflected as such on the roster of  
20      leases of the Bureau of Reclamation for 2001.

21          (7) SECRETARY.—The term “Secretary” means  
22      the Secretary of the Interior, acting through the  
23      Commissioner of Reclamation.

1           (8) STATE.—The term “State” means the State  
2           of South Dakota, including a successor in interest of  
3           the State.

4           (9) UNLEASED PARCEL.—The term “unleased  
5           parcel” means a parcel of land that—

6                   (A) was purchased by the Secretary for use  
7                   in connection with the Blunt Reservoir feature  
8                   or the Pierre Canal feature; and

9                   (B) is not under lease as of the date of en-  
10           actment of this Act.

11          (b) DEAUTHORIZATION.—The Blunt Reservoir fea-  
12   ture is deauthorized.

13          (c) ACCEPTANCE OF LAND AND OBLIGATIONS.—

14               (1) IN GENERAL.—As a condition of each con-  
15   veyance under subsections (d)(5) and (e), respec-  
16   tively, the Governor shall agree—

17                   (A) that the State shall accept in “as is”  
18                   condition, the portions of the Blunt Reservoir  
19                   feature and the Pierre Canal feature that pass  
20                   into State ownership;

21                   (B) that the State shall assume any liabil-  
22                   ity accruing after the date of conveyance as a  
23                   result of the ownership, operation, or mainte-  
24                   nance of the features referred to in subpara-  
25                   graph (A), including liability associated with

1 certain outstanding obligations associated with  
2 expired easements, or any other right granted  
3 in, on, over, or across either feature; and

4 (C) to act as the agent for the Secretary  
5 in administering the purchase option extended  
6 to preferential leaseholders under subsection  
7 (d).

8 (2) RESPONSIBILITIES OF THE STATE.—An  
9 outstanding obligation described in paragraph (1)(B)  
10 shall inure to the benefit of, and be binding upon,  
11 the State.

12 (3) OIL, GAS, MINERAL AND OTHER OUT-  
13 STANDING RIGHTS.—A conveyance to the State  
14 under subsection (d)(5) or (e) or a sale to a pref-  
15 erential leaseholder under subsection (d) shall be  
16 made subject to—

17 (A) oil, gas, and other mineral rights re-  
18 served of record, as of the date of enactment of  
19 this Act, by or in favor of a third party; and

20 (B) any permit, license, lease, right-of-use,  
21 or right-of-way of record in, on, over, or across  
22 a feature referred to in paragraph (1)(A) that  
23 is outstanding as to a third party as of the date  
24 of enactment of this Act.

1           (4) ADDITIONAL CONDITIONS OF CONVEYANCE  
2           TO STATE.—A conveyance to the State under sub-  
3           section (d)(5) or (e) shall be subject to the reserva-  
4           tions by the United States and the conditions speci-  
5           fied in section 1 of the Act of May 19, 1948 (chap-  
6           ter 310; 62 Stat. 240; 16 U.S.C. 667b), for the  
7           transfer of property to State agencies for wildlife  
8           conservation purposes.

9           (d) PURCHASE OPTION.—

10           (1) IN GENERAL.—A preferential leaseholder  
11           shall have an option to purchase from the Governor,  
12           acting as an agent for the Secretary, the preferential  
13           lease parcel that is the subject of the lease.

14           (2) TERMS.—

15           (A) IN GENERAL.—Except as provided in  
16           subparagraph (B), a preferential leaseholder  
17           may elect to purchase a parcel on 1 of the fol-  
18           lowing terms:

19                   (i) Cash purchase for the amount that  
20                   is equal to—

21                           (I) the value of the parcel deter-  
22                           mined under paragraph (4); minus

23                           (II) 10 percent of that value.

24                   (ii) Installment purchase, with 10 per-  
25                   cent of the value of the parcel determined

1 under paragraph (4) to be paid on the date  
2 of purchase and the remainder to be paid  
3 over not more than 30 years at 3 percent  
4 annual interest.

5 (B) VALUE UNDER \$10,000.—If the value  
6 of the parcel is under \$10,000, the purchase  
7 shall be made on a cash basis in accordance  
8 with subparagraph (A)(i).

9 (3) OPTION EXERCISE PERIOD.—

10 (A) IN GENERAL.—A preferential lease-  
11 holder shall have until the date that is 5 years  
12 after enactment of this Act to exercise the op-  
13 tion under paragraph (1).

14 (B) CONTINUATION OF LEASES.—Until the  
15 date specified in subparagraph (A), a pref-  
16 erential leaseholder shall be entitled to continue  
17 to lease from the Secretary the parcel leased by  
18 the preferential leaseholder under the same  
19 terms and conditions as under the lease, as in  
20 effect as of the date of enactment of this Act.

21 (4) VALUATION.—

22 (A) IN GENERAL.—The value of a pref-  
23 erential lease parcel shall be its fair market  
24 value for agricultural purposes determined by  
25 an independent appraisal, exclusive of the value

1 of private improvements made by the lease-  
2 holders while the land was federally owned be-  
3 fore the date of the enactment of this Act, in  
4 conformance with the Uniform Appraisal  
5 Standards for Federal Land Acquisition.

6 (B) FAIR MARKET VALUE.—Any dispute  
7 over the fair market value of a property under  
8 subparagraph (A) shall be resolved in accord-  
9 ance with section 2201.4 of title 43, Code of  
10 Federal Regulations.

11 (5) CONVEYANCE TO THE STATE.—

12 (A) IN GENERAL.—If a preferential lease-  
13 holder fails to purchase a parcel within the pe-  
14 riod specified in paragraph (3)(A), the Sec-  
15 retary shall convey the parcel to the State of  
16 South Dakota Department of Game, Fish, and  
17 Parks.

18 (B) WILDLIFE HABITAT MITIGATION.—  
19 Land conveyed under subparagraph (A) shall be  
20 used by the South Dakota Department of  
21 Game, Fish, and Parks for the purpose of miti-  
22 gating the wildlife habitat that was lost as a re-  
23 sult of the development of the Pick-Sloan  
24 project.



1           (6) USE OF PROCEEDS.—Proceeds of sales of  
2       land under this Act shall be deposited as miscella-  
3       neous funds in the Treasury and such funds shall be  
4       made available, subject to appropriations, to the  
5       State for the establishment of a trust fund to pay  
6       the county taxes on the lands received by the State  
7       Department of Game, Fish, and Parks under this  
8       Act.

9       (e) CONVEYANCE OF NONPREFERENTIAL LEASE  
10   PARCELS AND UNLEASED PARCELS.—

11           (1) CONVEYANCE BY SECRETARY TO STATE.—

12                (A) IN GENERAL.—Not later than 1 year  
13       after the date of enactment of this Act, the Sec-  
14       retary shall convey to the South Dakota De-  
15       partment of Game, Fish, and Parks the non-  
16       preferential lease parcels and unleased parcels  
17       of the Blunt Reservoir and Pierre Canal.

18                (B) WILDLIFE HABITAT MITIGATION.—

19       Land conveyed under subparagraph (A) shall be  
20       used by the South Dakota Department of  
21       Game, Fish, and Parks for the purpose of miti-  
22       gating the wildlife habitat that was lost as a re-  
23       sult of the development of the Pick-Sloan  
24       project.

1           (2) LAND EXCHANGES FOR NONPREFERENTIAL  
2 LEASE PARCELS AND UNLEASED PARCELS.—

3           (A) IN GENERAL.—The Governor may  
4 allow a person to exchange land that the person  
5 owns elsewhere in the State for a nonpref-  
6 erential lease parcel or unleased parcel at Blunt  
7 Reservoir or Pierre Canal, as the case may be.

8           (B) PRIORITY.—The right to exchange  
9 nonpreferential lease parcels or unleased parcels  
10 shall be granted in the following order or pri-  
11 ority:

12                   (i) Exchanges with current lessees for  
13 nonpreferential lease parcels.

14                   (ii) Exchanges with adjoining and ad-  
15 jacent landowners for unleased parcels and  
16 nonpreferential lease parcels not exchanged  
17 by current lessees.

18           (C) EASEMENT FOR WATER CONVEYANCE  
19 STRUCTURE.—As a condition of the exchange of  
20 land of the Pierre Canal feature under this  
21 paragraph, the United States reserves a per-  
22 petual easement to the land to allow for the  
23 right to design, construct, operate, maintain,  
24 repair, and replace a pipeline or other water

1 conveyance structure over, under, across, or  
2 through the Pierre Canal feature.

3 (f) RELEASE FROM LIABILITY.—

4 (1) IN GENERAL.—Effective on the date of con-  
5 veyance of any parcel under this Act, the United  
6 States shall not be held liable by any court for dam-  
7 ages of any kind arising out of any act, omission, or  
8 occurrence relating to the parcel, except for damages  
9 for acts of negligence committed by the United  
10 States or by an employee, agent, or contractor of the  
11 United States, before the date of conveyance.

12 (2) NO ADDITIONAL LIABILITY.—Nothing in  
13 this section adds to any liability that the United  
14 States may have under chapter 171 of title 28,  
15 United States Code (commonly known as the “Fed-  
16 eral Tort Claims Act”).

17 (g) REQUIREMENTS CONCERNING CONVEYANCE OF  
18 LEASE PARCELS.—

19 (1) INTERIM REQUIREMENTS.—During the pe-  
20 riod beginning on the date of enactment of this Act  
21 and ending on the date of conveyance of the parcel,  
22 the Secretary shall continue to lease each pref-  
23 erential lease parcel or nonpreferential lease parcel  
24 to be conveyed under this section under the terms

1       and conditions applicable to the parcel on the date  
2       of enactment of this Act.

3           (2) PROVISION OF PARCEL DESCRIPTIONS.—

4       Not later than 180 days after the date of enactment  
5       of this Act, the Secretary shall provide the State a  
6       full legal description of all preferential lease parcels  
7       and nonpreferential lease parcels that may be con-  
8       veyed under this section.

9       (h) AUTHORIZATION OF APPROPRIATIONS.—There is  
10      authorized to be appropriated to carry out this Act  
11      \$750,000 to reimburse the Secretary for expenses in-  
12      curred in implementing this Act, and such sums as are  
13      necessary to reimburse the Governor for expenses incurred  
14      implementing this Act, not to exceed 10 percent of the  
15      cost of each transaction conducted under this Act.

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